IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 28TH MARCH 2007 / 7TH CHAITHRA 1929

Crl.MC.No. 820 of 2007()

CC.245/2006 of CHIEF JUDICIAL MAGISTRATE COURT, KOLLAM

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PETITIONER: ACCUSED

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1. NISSAM, S/O.MOHAMMED KANNY,
   AGED 24 YEARS, SALEENA MANZIL, PURAKKANNOOR
   CHERIYIL, ELAMPALLORE VILLAGE.

2. SHERIEF, AGED 31 YEARS,
   S/O.MOHAMMED KANNU, AYYUB MANZIL,
   VILAKUDILCHERY, NEAR KUNNIKKODU TOWN,
   VILAKUDY VILLAGE.

BY ADV. SRI.K.ABDUL JAWAD

RESPONDENTS: COMPLAINANT

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1. STATE OF KERALA,
   REPRESENTED BY PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
   EAST POLICE STATION, KOLLAM.

3. SABEENA, D/O.BEEBI JAN,
   AGED 24 YEARS, SALIM MANZIL, NATIONAL NAGAR,
   KALPOORAMCHERY.

R1 & 2 BY PUBLIC PROSECUTOR SRI. GIKKU JACOB
R3 BY ADV. SRI. RONALD JOSE

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 820 OF 2007

Dated this the 28th day of March, 2007

ORDER

The petitioners face indictment in a prosecution under Sec.498A read with Sec.34 of the IPC. They are the husband and brother-in-law respectively of the 3rd respondent – the de facto complainant. Cognizance has been taken on the basis of a final report submitted by the police, after due investigation. Proceedings are pending before the learned Chief Judicial Magistrate, Kollam, as C.C.No.245/06.

2. The petitioners have come to this Court with this Crl.M.C. to inform the Court that the disputes between them and the 3rd respondent have been settled amicably and that the 3rd respondent has compounded the offences allegedly committed by the petitioners. In view of the settlement and composition, it is prayed that the powers under Sec.482 of the Cr.P.C. may be invoked and the proceedings against the

petitioners may be quashed.

3. The 3rd respondent has entered appearance through counsel. The learned counsel for the 3rd respondent confirms that the matter has been settled between the parties and that the 3rd respondent has compounded the offences allegedly committed by the petitioners. The parties have filed a joint application for composition duly signed by them and countersigned by their respective counsel. The learned counsel for the 3rd respondent vouches for the signature of the 3rd respondent in the joint application for composition.

4. I am satisfied from the averments made in the petition and the submissions made at the Bar that the parties have willingly and voluntarily settled their disputes and the 3rd respondent has compounded the offences allegedly committed by the petitioners. If the same is legally acceptable, I am satisfied that the same deserves to be accepted.

5. The offence under Sec.498A of the IPC is not compoundable. But the learned counsel pray that the decision in **B.S. Joshy v. State of Haryana** (AIR 2003 SC 1386) justifies the invocation of the powers under Sec.482 of the Cr.P.C. The spouses are living together now. In these circumstances, the

continuance of the prosecution is turning out to be an unnecessary irritant in the harmonious relationship between the spouses and in these circumstances, it is prayed that the extraordinary inherent powers under Sec.482 of the Cr.P.C. may be invoked to bring to premature termination the prosecution against the petitioners.

6. I am satisfied, in the facts and circumstances of this case, that this is an eminently fit case where the composition can be accepted and the proceedings brought to termination invoking the dictum in **B.S. Joshy v. State of Haryana** (AIR 2003 SC 1386).

7. In the result:

(i) This Crl.M.C. is allowed.

(ii) C.C.No.245/06 pending before the Chief Judicial Magistrate, Kollam, against the petitioners is hereby quashed.

Sd/-

(R. BASANT, JUDGE)

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//true copy// **P.S. To Judge**